

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TOBIN, Minors.

UNPUBLISHED
August 13, 2013

No. 314550
Kent Circuit Court
Family Division
LC No. 12-052776-NA

Before: WHITBECK, P.J., and OWENS and M. J. KELLY, JJ.

PER CURIAM.

Respondent-mother W. Patnode appeals as of right the trial court's order terminating her parental rights to her two minor daughters under MCL 712A.19b(3)(e), (g), and (j). She contends that the trial court clearly erred when it determined that termination was in the children's best interests. We disagree and affirm.

I. FACTS

A. BACKGROUND FACTS

In 2008, Child Protective Services removed the children from Patnode's home because of substance abuse and neglect. In 2009, Patnode consensually placed her daughters in a guardianship in the home of her grandparents, the daughters' great-grandparents. Patnode testified that she did this because she temporarily needed assistance to care for them.

In May 2010, Patnode petitioned the trial court to terminate the daughter's guardianships, but she subsequently did not comply with the trial court's reintegration plan. Patnode was unable to maintain steady housing or employment, and she allowed another man to be present when she was visiting the children. The trial court terminated the reintegration plan in May 2012, and began hearings to terminate Patnode's parental rights in October 2012.

B. THE CHILDREN'S BEST INTERESTS

At a prior hearing, Patnode stated that she did not bond with the younger daughter because she had trouble with post-partum depression after she was born, and that she continued to have issues bonding to her. Patnode indicated that she would address the issue through therapy.

Suzanne Portillo, the children's social worker until January 2012, testified that Patnode had trouble bonding with the children. Portillo testified that the younger daughter said that it seemed like Patnode loved the oldest daughter, but did not love her. Portillo referred Patnode to a counselor to address the bonding issue, but Patnode did not follow through on the referral. One of the children's guardians testified that the oldest daughter might be bonded to Patnode, but the youngest daughter was not.

Amanda Shaneberger, the daughters' counselor, testified that she had diagnosed both daughters with adjustment disorder, anxiety, and depression. According to Shaneberger, the youngest daughter believed that Patnode did not love her and felt rejected. The oldest daughter was very loyal to the youngest daughter and felt guilty that Patnode treated her differently. The daughters felt comfortable and safe in their guardians' home and had requested to live with them. Shaneberger believed that the children needed a final placement so that they could begin grief counseling. She believed that the lack of finality was subjecting them to prolonged anxiety, instability, and trauma.

Patnode testified that when she visited the children, their visits were wonderful. She testified that she had addressed how to emotionally handle the situation with her daughters with her therapist, Pamela Dunckel. Dunckel testified that she had requested that the children be included in Patnode's therapy sessions, but the trial court denied her request. According to Dunckel, Patnode had a good bond with the oldest daughter, but had an attachment issue with the youngest daughter. Dunckel believed that the attachment issue could be addressed through family therapy.

Peggy Jacobs, a family friend, testified that she had observed Patnode interacting with her daughters on several occasions. Jacobs testified that the daughters enjoyed Patnode's attention, they appeared happy, and they interacted well with Patnode. Jacobs testified that Patnode did not treat her daughters differently; Jacobs did not believe that there were any bonding issues between them.

Robin Ryder, Patnode's mother, testified that she observed some of Patnode's visits with her daughters, and Patnode did not treat her daughters differently from each other. According to Ryder, the children did not always want to return to their guardians.

Patnode's boyfriend testified that he had observed Patnode's visits with her daughters and that the daughters seemed happy when they were with her. He did not think that Patnode treated her daughters differently from each other.

C. THE TRIAL COURT'S FINDINGS AND DETERMINATION

The trial court noted that Shaneberger testified that the children needed finality, would be harmed without it, and had noticed that they were being treated differently. The trial court acknowledged that the children were living with relatives, but found that leaving them in "limbo" with their guardians was not in their best interests. It found that terminating Patnode's parental rights was in the children's best interests.

II. THE CHILDREN'S BEST INTERESTS

A. STANDARD OF REVIEW

The trial court must order the parent's rights terminated if the Department has established a statutory ground for termination by clear and convincing evidence and the trial court finds from evidence on the whole record that termination is in the child's best interests.¹ We review for clear error the trial court's determination regarding the children's best interests.²

B. LEGAL STANDARDS

The trial court may consider a wide variety of factors to determine whether termination of a parent's parental rights is in a child's best interests, and those factors may include "the child's bond to the parent . . . [and] the child's need for permanency, stability, and finality[.]"³ The trial court may also consider the parent's visitation history and compliance with court-ordered plans, the children's well-being while in care, and the possibility of adoption.⁴

C. APPLYING THE STANDARDS

Patnode contends that the trial court's best-interests determination was clearly erroneous. She urges this Court to focus on the favorable testimony by Dunckel, Jacobs, Ryder, and Patnode's boyfriend. We disagree.

The trial court's comments indicate that it afforded considerable weight to the testimony of Shaneberger, the daughters' counselor. The trial court should weigh all the evidence available to determine the children's best interests.⁵ This Court defers to the special ability of the trial court to judge the credibility of witnesses.⁶

As illustrated in the statement of facts, some witnesses did testify favorably concerning Patnode's relationship with her daughters. However, Shaneberger testified that the girls suffered from adjustment disorder, anxiety, and depression, and that the lack of stability and finality in their lives was causing them further anxiety and trauma. Shaneberger testified that the children needed stability and a final placement. Portillo also testified that Patnode and the youngest daughter had bonding issues, which Patnode did not take steps to correct. Considering the children's heightened needs for stability and finality and the testimony that Patnode and her

¹ MCL 712A.19b(5); *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012).

² MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

³ *In re Olive/Metts*, 297 Mich App at 41-42.

⁴ See *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004); *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001).

⁵ *In re Trejo*, 462 Mich at 353.

⁶ MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

youngest daughter did not share a bond, we are not clearly and firmly convinced that the trial court made a mistake when it determined that terminating Patnode's parental rights was in the children's best interests.

We affirm.

/s/ William C. Whitbeck
/s/ Donald S. Owens
/s/ Michael J. Kelly